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8 **BEFORE THE**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 79/09-25

12 **DEOL AUTOMOTIVE SERVICE**

1974 Tennyson Road
Hayward, California 94545

13 **PIARA S. DEOL, OWNER**

A C C U S A T I O N

[SMOG CHECK]

14 Automotive Repair Dealer Registration
15 No. ARD 147661
Smog Check Station License No. RC 147661
16 Brake Station License No. BS 147661
Lamp Station License No. LS 147661,

17 and
18

19 **PIARA SINGH DEOL**

4645 Silvertide Drive
Union City, California 94587

20 Advanced Emission Specialist Technician
21 License No. EA 313163

22 Respondents.
23

24 Sherry Mehl ("Complainant") alleges:

25 **PARTIES**

26 1. Complainant brings this Accusation solely in her official capacity as the
27 Chief of the Bureau of Automotive Repair ("Bureau"), Department of Consumer Affairs.

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1 **Automotive Repair Dealer Registration**

2 2. On or about June 21, 1989, the Bureau issued Automotive Repair Dealer
3 Registration Number ARD 147661 ("registration") to Piara S. Deol, doing business as
4 Deol Automotive Service ("Respondent"). The registration will expire on June 30, 2009, unless
5 renewed.

6 **Smog Check Station License**

7 3. On or about August 16, 1989, the Bureau issued Smog Check Station
8 License Number RC 147661 ("station license") to Respondent. The station license will expire on
9 June 30, 2009, unless renewed.

10 **Brake Station License**

11 4. On or about September 6, 1989, the Bureau issued Brake Station License
12 Number BS 147661 ("brake station license") to Respondent. The brake station license will
13 expire on June 30, 2009, unless renewed.

14 **Lamp Station License**

15 5. On or about September 6, 1989, the Bureau issued Lamp Station License
16 Number LS 147661 ("lamp station license") to Respondent. The lamp station license will expire
17 on June 30, 2009, unless renewed.

18 **Advanced Emission Specialist Technician License**

19 6. On or about March 28, 2003, the Bureau issued Advanced Emission
20 Specialist Technician License Number EA 313163 ("technician license") to Respondent. The
21 technician license will expire on February 28, 2009, unless renewed.

22 **STATUTORY PROVISIONS**

23 7. Section 9884.7 of the Business and Professions Code ("Code") states, in
24 pertinent part:

25 (a) The director, where the automotive repair dealer cannot show there was
26 a bona fide error, may refuse to validate, or may invalidate temporarily or
27 permanently, the registration of an automotive repair dealer for any of the
28 following acts or omissions related to the conduct of the business of the
automotive repair dealer, which are done by the automotive repair dealer or any
automotive technician, employee, partner, officer, or member of the automotive
repair dealer.

1 (1) Making or authorizing in any manner or by any means whatever any
2 statement written or oral which is untrue or misleading, and which is known, or
3 which by the exercise of reasonable care should be known, to be untrue or
4 misleading.

5 (3) Failing or refusing to give to a customer a copy of any document
6 requiring his or her signature, as soon as the customer signs the document.

7 (4) Any other conduct which constitutes fraud.

8 (6) Failure in any material respect to comply with the provisions of this
9 chapter [the Automotive Repair Act (Bus. & Prof. Code, 9880, et seq.)] or
10 regulations adopted pursuant to it.

11 (b) Except as provided for in subdivision (c), if an automotive repair
12 dealer operates more than one place of business in this state, the director pursuant
13 to subdivision (a) shall only invalidate temporarily or permanently the registration
14 of the specific place of business which has violated any of the provisions of this
15 chapter. This violation, or action by the director, shall not affect in any manner
16 the right of the automotive repair dealer to operate his or her other places of
17 business.

18 (c) Notwithstanding subdivision (b), the director may invalidate
19 temporarily or permanently, the registration for all places of business operated in
20 this state by an automotive repair dealer upon a finding that the automotive repair
21 dealer has, or is, engaged in a course of repeated and willful violations of this
22 chapter, or regulations adopted pursuant to it.

23 8. Code section 9884.9, subdivision (a), states:

24 (a) The automotive repair dealer shall give to the customer a written
25 estimated price for labor and parts necessary for a specific job. No work shall be
26 done and no charges shall accrue before authorization to proceed is obtained from
27 the customer. No charge shall be made for work done or parts supplied in excess
28 of the estimated price without the oral or written consent of the customer that
shall be obtained at some time after it is determined that the estimated price is
insufficient and before the work not estimated is done or the parts not estimated
are supplied. Written consent or authorization for an increase in the original
estimated price may be provided by electronic mail or facsimile transmission from
the customer. The bureau may specify in regulation the procedures to be followed
by an automotive repair dealer if an authorization or consent for an increase in the
original estimated price is provided by electronic mail or facsimile transmission.
If that consent is oral, the dealer shall make a notation on the work order of the
date, time, name of person authorizing the additional repairs and telephone
number called, if any, together with a specification of the additional parts and
labor and the total additional cost, and shall do either of the following:

(1) Make a notation on the invoice of the same facts set forth in the
notation on the work order.

(2) Upon completion of the repairs, obtain the customer's signature or
initials to an acknowledgment of notice and consent, if there is an oral consent of
the customer to additional repairs, in the following language:

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1 "I acknowledge notice and oral approval of an increase in the original estimated
2 price.

3 _____
(signature or initials)"

4 Nothing in this section shall be construed as requiring an automotive
5 repair dealer to give a written estimated price if the dealer does not agree to
6 perform the requested repair.

7 9. Code section 9884.13 provides, in pertinent part, that the expiration of a
8 valid registration shall not deprive the director or chief of jurisdiction to proceed with a
9 disciplinary proceeding against an automotive repair dealer or to render a decision invalidating a
10 registration temporarily or permanently.

11 10. Code section 9889.1 provides, in pertinent part, that the Director may
12 suspend or revoke any license issued under Articles 5 and 6 (commencing with Code section
13 9887.1) of the Automotive Repair Act.

14 11. Code section 9889.7 provides, in pertinent part, that the expiration or
15 suspension of a license by operation of law or by order or decision of the Director or a court of
16 law, or the voluntary surrender of a license shall not deprive the Director of jurisdiction to
17 proceed with any disciplinary proceedings.

18 12. Code section 9889.3, states, in pertinent part:

19 The director may suspend, revoke, or take other disciplinary action against
20 a license as provided in this article if the licensee or any partner, officer, or
21 director thereof:

22 (d) Commits any act involving dishonesty, fraud, or deceit whereby
23 another is injured.

24 13. Section 44002 of the Health and Safety Code provides, in pertinent part,
25 that the Director has all the powers and authority granted under the Automotive Repair Act for
26 enforcing the Motor Vehicle Inspection Program.

27 14. Section 44072.2 of the Health and Safety Code states, in pertinent part:

28 The director may suspend, revoke, or take other disciplinary action against
a license as provided in this article if the licensee, or any partner, officer, or
director thereof, does any of the following:

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1 (a) Violates any section of this chapter [the Motor Vehicle Inspection
2 Program (Health and Saf. Code, § 44000, et seq.)) and the regulations adopted
pursuant to it, which related to the licensed activities.

3 (c) Violates any of the regulations adopted by the director pursuant to this
4 chapter.

5 (d) Commits any act involving dishonesty, fraud, or deceit whereby
another is injured.

6 (f) Aids or abets unlicensed persons to evade the provisions of this
7 chapter.

8 15. Section 44072.6 of the Health and Safety Code provides, in pertinent part,
9 that the expiration or suspension of a license by operation of law, or by order or decision of the
10 Director of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall
11 not deprive the Director of jurisdiction to proceed with disciplinary action.

12 16. Section 44072.8 of the Health & Safety Code states:

13 “When a license has been revoked or suspended following a hearing under this
14 article, any additional license issued under this chapter in the name of the licensee may be
15 likewise revoked or suspended by the director.”

16 17. Code section 477 provides, in pertinent part, that “Board” includes
17 “bureau,” “commission,” “committee,” “department,” “division,” “examining committee,”
18 “program,” and “agency.” “License” includes certificate, registration or other means to engage
19 in a business or profession regulated by the Code.

20 **COST RECOVERY**

21 18. Code section 125.3 provides, in pertinent part, that a Board may request
22 the administrative law judge to direct a licensee found to have committed a violation or
23 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
24 and enforcement of the case.

25 **UNDERCOVER OPERATION - MAY 3, 2007**

26 19. On May 3, 2007, a Bureau undercover operator using the alias
27 Rubin Gomez (“operator”) drove a Bureau-documented 1995 Chevrolet Astro Van, California
28 License Plate No. 3 NUD802, to Respondent’s facility for a smog inspection. The vehicle could

1 not pass a smog inspection because the vehicle's positive crankcase ventilation ("PCV") system
2 was missing. Joel Luna Martinez ("Martinez"), an unlicensed person using Respondent's
3 personal access code, performed the smog inspection. The operator filled out and signed a work
4 order; however, the operator was not provided with a copy of the document prior to the smog
5 inspection. Martinez did not perform a functional test of the ignition timing. Respondent issued
6 electronic Certificate of Compliance No. MQ843870C, certifying that he had tested and
7 inspected the 1995 Chevrolet Astro Van and that the vehicle was in compliance with applicable
8 laws and regulations. In fact, the vehicle could not have passed the visual portion of the smog
9 inspection because the vehicle's PCV system was missing.

10 **FIRST CAUSE FOR DISCIPLINE**

11 **(Untrue or Misleading Statements)**

12 20. Respondent's registration is subject to disciplinary action pursuant to Code
13 section 9884.7, subdivision (a)(1), in that on or about May 3, 2007, Respondent made or
14 authorized statements which he knew or in the exercise of reasonable care he should have known
15 to be untrue or misleading by issuing electronic Certificate of Compliance No. MQ843870C for
16 the 1995 Chevrolet Astro Van, certifying that the vehicle was in compliance with applicable laws
17 and regulations. In fact, the vehicle could not have passed the visual portion of the smog
18 inspection because the vehicle's PCV system was missing.

19 **SECOND CAUSE FOR DISCIPLINE**

20 **(Fraud)**

21 21. Respondent's registration is subject to disciplinary action pursuant to Code
22 section 9884.7, subdivision (a)(4), in that on or about May 3, 2007, he committed acts which
23 constitute fraud by issuing electronic Certificate of Compliance No. MQ843870C for the 1995
24 Chevrolet Astro Van without performing a bona fide inspection of the emission control devices
25 and systems on the vehicle, thereby depriving the People of the State of California of the
26 protection afforded by the Motor Vehicle Inspection Program.

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1 regarding the 1995 Chevrolet Astro Van, Respondent failed to comply with the following
2 provisions of California Code of Regulations, title 16:

3 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently
4 issued electronic Certificate of Compliance No. MQ843870C for the vehicle, in that the vehicle
5 could not pass a smog inspection because the vehicle's PCV system was missing.

6 b. **Section 3340.35, subdivision (c):** Respondent issued electronic
7 Certificate of Compliance No. MQ843870C for the vehicle even though the vehicle had not been
8 inspected in accordance with section 3340.42.

9 c. **Section 3340.41, subdivision (b):** Respondent allowed Martinez to
10 access the Emission Inspection System ("EIS") using Respondent's personal access code.

11 d. **Section 3340.42:** Respondent failed to conduct the required smog tests on
12 the vehicle in accordance with the Bureau's specifications.

13 **SIXTH CAUSE FOR DISCIPLINE**

14 **(Dishonesty, Fraud or Deceit)**

15 25. Respondent's station license is subject to disciplinary action pursuant to
16 Health & Safety Code section 44072.2, subdivision (d), in that on or about May 3, 2007,
17 Respondent committed dishonest, fraudulent or deceitful acts whereby another is injured by
18 issuing electronic Certificate of Compliance No. MQ843870C for the 1995 Chevrolet Astro Van
19 without performing a bona fide inspection of the emission control devices and systems on the
20 vehicle, thereby depriving the People of the State of California of the protection afforded by the
21 Motor Vehicle Inspection Program.

22 **SEVENTH CAUSE FOR DISCIPLINE**

23 **(Aiding and Abetting Unlicensed Activity)**

24 26. Respondent's station license is subject to disciplinary action pursuant to
25 Health and Safety Code section 44072.2, subdivision (f), in that on or about May 3, 2007, he
26 aided and abetted Martinez, an unlicensed person, to evade the provisions of the Motor Vehicle
27 Inspection Program by allowing Martinez to perform the smog tests and inspections on the 1995
28 Chevrolet Astro Van when Martinez was not licensed to do so.

1 **EIGHTH CAUSE FOR DISCIPLINE**

2 **(Violations of the Motor Vehicle Inspection Program)**

3 27. Respondent's technician license is subject to disciplinary action pursuant
4 to Health and Safety Code section 44072.2, subdivision (a), in that on or about May 3, 2007,
5 regarding electronic Certificate of Compliance No. MQ843870C for the 1995 Chevrolet Astro
6 Van, he violated the following sections of that Code:

7 a. **Section 44012, subdivision (f):** Respondent failed to determine that all
8 emission control devices and systems required by law were installed and functioning correctly on
9 the vehicle in accordance with test procedures.

10 b. **Section 44014, subdivision (a):** Respondent allowed Martinez to
11 perform the smog inspection when Martinez was not licensed to do so.

12 c. **Section 44032:** Respondent failed to perform tests of the emission
13 control devices and systems on the vehicle in accordance with section 44012 of that Code.

14 d. **Section 44059:** Respondent entered false information for the electronic
15 certificate of compliance by certifying that the vehicle had been inspected as required when, in
16 fact, it had not.

17 **NINTH CAUSE FOR DISCIPLINE**

18 **(Failure to Comply with Regulations Pursuant**
19 **to the Motor Vehicle Inspection Program)**

20 28. Respondent's technician license is subject to disciplinary action pursuant
21 to Health and Safety Code section 44072.2, subdivision (c), in that on or about May 3, 2007,
22 regarding electronic Certificate of Compliance No. MQ843870C for the 1995 Chevrolet Astro
23 Van, he violated the following sections of the California Code of Regulations, title 16:

24 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently
25 issued electronic Certificate of Compliance No. MQ843870C for that vehicle, in that the vehicle
26 could not have passed the visual portion of the smog inspection because the vehicle's PCV
27 system was missing.

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1 b. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test
2 the vehicle in accordance with Health and Safety Code sections 44012 and 44035, and California
3 Code of Regulations, title 16, section 3340.42.

4 c. **Section 3340.41, subdivision (b):** Respondent allowed Martinez to
5 access the EIS using Respondent's personal access code in order to perform the smog inspection.

6 d. **Section 3340.42:** Respondent failed to conduct the required smog tests
7 and inspections on the vehicle in accordance with the Bureau's specifications.

8 **TENTH CAUSE FOR DISCIPLINE**

9 **(Dishonesty, Fraud or Deceit)**

10 29. Respondent's technician license is subject to disciplinary action pursuant
11 to Health and Safety Code section 44072.2, subdivision (d), in that on or about May 3, 2007, he
12 committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing
13 electronic Certificate of Compliance No. MQ843870C for the 1995 Chevrolet Astro Van without
14 performing a bona fide inspection of the emission control devices and systems on that vehicle,
15 thereby depriving the People of the State of California of the protection afforded by the Motor
16 Vehicle Inspection Program.

17 **ELEVENTH CAUSE FOR DISCIPLINE**

18 **(Aiding and Abetting Unlicensed Activity)**

19 30. Respondent has subjected his technician license to disciplinary action
20 pursuant to Health and Safety Code section 44072.2, subdivision (f), in that on or about May 3,
21 2007, he aided and abetted Martinez, an unlicensed person, to evade the provisions of the Motor
22 Vehicle Inspection Program by allowing Martinez to perform the smog tests and inspections on
23 the 1995 Chevrolet Astro Van when Martinez was not licensed to do.

24 **SURVEILLANCE OPERATION - JUNE 20, 2007**

25 31. On or about June 20, 2007, the Bureau performed a videotaped surveillance
26 at Respondent's facility. The surveillance operation and information obtained from the Bureau's
27 Vehicle Identification Data ("VID") revealed that from approximately 0919 hours to 1238 hours,
28 two (2) smog inspections were performed that resulted in the issuance of electronic Certificate of

1 Compliance No. MS406926 for a 1991 Mazda MPV and electronic Certificate of Compliance No.
2 MS406927C for a 1992 Acura Integra, certifying that the vehicles had been tested and inspected
3 and that the vehicles were in compliance with applicable laws and regulations. In fact, both smog
4 inspections were performed by Martinez, who was not licensed to perform smog inspections.

5 **TWELFTH CAUSE FOR DISCIPLINE**

6 **(Misleading Statements)**

7 32. Respondent's registration is subject to disciplinary action pursuant to Code
8 section 9884.7, subdivision (a)(1), in that on or about June 20, 2007, he made statements which he
9 knew or which by exercise of reasonable care he should have known were untrue or misleading,
10 as follows:

11 a. Respondent issued electronic Certificate of Compliance No. MS406926C
12 for the 1991 Mazda MPV, certifying that the vehicle had been tested and inspected by a licensed
13 technician when, in fact, Martinez performed the tests and inspections when Martinez was not
14 licensed to do so.

15 b. Respondent issued electronic Certificate of Compliance No. MS406927C
16 for the 1992 Acura Integra, certifying that the vehicle had been tested and inspected by a licensed
17 technician when, in fact, Martinez performed the tests and inspections when Martinez was not
18 licensed to do so.

19 **THIRTEENTH CAUSE FOR DISCIPLINE**

20 **(Fraud)**

21 33. Respondent's registration is subject to disciplinary action pursuant to Code
22 section 9884.7, subdivision (a)(4), in that on or about June 20, 2007, he committed acts which
23 constitute fraud by issuing electronic Certificate of Compliance No. MS406926 for a 1991 Mazda
24 MPV and electronic Certificate of Compliance No. MS406927C for a 1992 Acura Integra without
25 performing bona fide inspections of the emission control devices and systems on those vehicles,
26 thereby depriving the People of the State of California of the protection afforded by the Motor
27 Vehicle Inspection Program.

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1 **FOURTEENTH CAUSE FOR DISCIPLINE**

2 **(Violations of Regulations Pursuant to the Motor Vehicle Inspection Program)**

3 34. Respondent has subjected his station license to disciplinary action pursuant
4 to Health and Safety Code section 44072.2, subdivision (c), in that on or about June 20, 2007,
5 regarding electronic Certificate of Compliance No. MS406926C for the 1991 Mazda MPV and
6 electronic Certificate of Compliance No. MS406927C for the 1992 Acura Integra, he violated the
7 following sections of that Code:

8 a. **Section 44012, subdivision (f):** Respondent failed to perform emission
9 control tests on those vehicles in accordance with procedures prescribed by the department.

10 b. **Section 44014, subdivision (a):** Respondent allowed Martinez to perform
11 the smog inspections when Martinez was not licensed to do so.

12 c. **Section 44015, subdivision (b):** Respondent issued the electronic
13 certificates of compliance for those vehicles without properly testing and inspecting the vehicles
14 to determine if they were in compliance with Health & Safety Code section 44012.

15 d. **Section 44059:** Respondent willfully made false entries for the electronic
16 certificates of compliance by certifying that the vehicles had been inspected as required when, in
17 fact, they had not.

18 **FIFTEENTH CAUSE FOR DISCIPLINE**

19 **(Failure to Comply with Regulations Pursuant**
20 **to the Motor Vehicle Inspection Program)**

21 35. Respondent's station license is subject to disciplinary action pursuant to
22 Health & Safety Code section 44072.2, subdivision (c), in that on or about June 20, 2007,
23 regarding electronic Certificate of Compliance No. MS406926C for the 1991 Mazda MPV and
24 electronic Certificate of Compliance No. MS406927C for the 1992 Acura Integra, Respondent
25 failed to comply with the following provisions of California Code of Regulations, title 16:

26 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently
27 issued the electronic certificates of compliance for those vehicles without performing bona fide

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1 inspections of the emission control devices and systems on those vehicles as required by Health
2 and Safety Code section 44012.

3 b. **Section 3340.35, subdivision (c):** Respondent issued the electronic
4 certificates of compliance for the vehicles even though the vehicles had not been inspected in
5 accordance with section 3340.42.

6 c. **Section 3340.41, subdivision (b):** Respondent allowed Martinez to
7 access the EIS using Respondent's personal access code in order to perform the smog inspections.

8 d. **Section 3340.42:** Respondent failed to conduct the required smog tests on
9 those vehicles in accordance with the Bureau's specifications.

10 **SIXTEENTH CAUSE FOR DISCIPLINE**

11 **(Dishonesty, Fraud or Deceit)**

12 36. Respondent has subjected his station license to disciplinary action pursuant
13 to Health and Safety Code section 44072.2, subdivision (d), in that on or about June 20, 2007,
14 regarding electronic Certificate of Compliance No. MS406926C for the 1991 Mazda MPV and
15 electronic Certificate of Compliance No. MS406927C for the 1992 Acura Integra, he committed
16 acts involving dishonesty, fraud or deceit whereby another was injured by issuing the electronic
17 certificates of compliance for those vehicles without performing bona fide inspections of the
18 emission control devices and systems on those vehicles, thereby depriving the People of the State
19 of California of the protection afforded by the Motor Vehicle Inspection Program.

20 **SEVENTEENTH CAUSE FOR DISCIPLINE**

21 **(Aiding and Abetting Unlicensed Activity)**

22 37. Respondent has subjected his station license to disciplinary action pursuant
23 to Health and Safety Code section 44072.2, subdivision (f), in that on or about June 20, 2007, he
24 aided and abetted Martinez, an unlicensed person, to evade the provisions of the Motor Vehicle
25 Inspection Program by allowing Martinez to perform the smog tests and inspections on the 1991
26 Mazda MPV and 1992 Acura Integra when Martinez was not licensed to do.

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1 **EIGHTEENTH CAUSE FOR DISCIPLINE**

2 **(Violations of the Motor Vehicle Inspection Program)**

3 38. Respondent's technician license is subject to disciplinary action under
4 Health and Safety Code section 44072.2, subdivision (a), in that on or about June 20, 2007,
5 regarding electronic Certificate of Compliance No. MS406926C for the 1991 Mazda MPV and
6 electronic Certificate of Compliance No. MS406927C for the 1992 Acura Integra, he violated the
7 following sections of that Code:

8 a. **Section 44012, subdivision (f):** Respondent failed to determine that all
9 emission control devices and systems required by law were installed and functioning correctly on
10 those vehicles in accordance with test procedures.

11 b. **Section 44014, subdivision (a):** Respondent allowed Martinez to perform
12 the smog inspections when Martinez was not licensed to do so.

13 c. **Section 44032:** Respondent failed to perform tests of the emission control
14 devices and systems on those vehicles in accordance with section 44012 of that Code.

15 d. **Section 44059:** Respondent entered false information for the electronic
16 certificates of compliance by certifying that the vehicles had been inspected as required when, in
17 fact, they had not.

18 **NINETEENTH CAUSE FOR DISCIPLINE**

19 **(Failure to Comply with Regulations Pursuant**
20 **to the Motor Vehicle Inspection Program)**

21 39. Respondent's technician license is subject to disciplinary action under
22 Health and Safety Code section 44072.2, subdivision (c), in that on or about June 20, 2007,
23 regarding electronic Certificate of Compliance No. MS406926C for the 1991 Mazda MPV and
24 electronic Certificate of Compliance No. MS406927C for the 1992 Acura Integra, he violated the
25 following sections of the California Code of Regulations, title 16:

26 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently
27 issued the electronic certificates of compliance for those vehicles without performing bona fide

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1 inspections of the emission control devices and systems on the vehicles as required by Health and
2 Safety Code section 44012.

3 b. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test
4 those vehicles in accordance with Health and Safety Code section 44012.

5 c. **Section 3340.41, subdivision (b):** Respondent allowed Martinez to
6 access the EIS unit using Respondent's personal access code in order to perform the smog
7 inspections.

8 d. **Section 3340.42:** Respondent failed to conduct the required smog tests
9 and inspections on those vehicles in accordance with the Bureau's specifications.

10 **TWENTIETH CAUSE FOR DISCIPLINE**

11 **(Dishonesty, Fraud or Deceit)**

12 40. Respondent has subjected his technician license to disciplinary action
13 pursuant to Health and Safety Code section 44072.2, subdivision (d), in that on or about June 20,
14 2007, regarding electronic Certificate of Compliance No. MS406926C for the 1991 Mazda MPV
15 and electronic Certificate of Compliance No. MS406927C for the 1992 Acura Integra, he
16 committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing the
17 electronic certificates of compliance for those vehicles without performing bona fide inspections
18 of the emission control devices and systems on the vehicles, thereby depriving the People of the
19 State of California of the protection afforded by the Motor Vehicle Inspection Program.

20 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

21 **(Aiding and Abetting Unlicensed Activity)**

22 41. Respondent has subjected his technician license to disciplinary action
23 pursuant to Health and Safety Code section 44072.2, subdivision (f), in that on or about June 20,
24 2007, he aided and abetted Martinez, an unlicensed person, to evade the provisions of the Motor
25 Vehicle Inspection Program by allowing Martinez to perform the smog tests and inspections on
26 the 1991 Mazda MPV and 1992 Acura Integra when Martinez was not licensed to do so.

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1 **SURVEILLANCE OPERATION - JUNE 21, 2007**

2 42. On or about June 21, 2007, the Bureau performed a videotaped surveillance
3 at Respondent's facility. The surveillance operation and information obtained from the Bureau's
4 VID revealed that from approximately 0959 hours to 1027 hours, two (2) smog inspections were
5 performed that resulted in the issuance of electronic Certificate of Compliance No. MS406929C
6 for a 2000 Pontiac Grand Am and electronic Certificate of Compliance No. MS406930C for a
7 2002 Pontiac Grand Prix, certifying that the vehicles had been tested and inspected and that the
8 vehicles were in compliance with applicable laws and regulations. In fact, both smog inspections
9 were performed by Martinez, who was not licensed to perform smog inspections.

10 **TWENTY-SECOND CAUSE FOR DISCIPLINE**

11 **(Misleading Statements)**

12 43. Respondent's registration is subject to disciplinary action pursuant to Code
13 section 9884.7, subdivision (a)(1), in that on or about June 21, 2007, he made statements which he
14 knew or which by exercise of reasonable care he should have known were untrue or misleading,
15 as follows:

16 a. Respondent issued electronic Certificate of Compliance No. MS406929C
17 for the 2000 Pontiac Grand Am, certifying that the vehicle had been tested and inspected by a
18 licensed technician when, in fact, Martinez performed the tests and inspections when Martinez
19 was not licensed to do so.

20 b. Respondent issued electronic Certificate of Compliance No. MS406930C
21 for the 2002 Pontiac Grand Prix, certifying that the vehicle had been tested and inspected by a
22 licensed technician when, in fact, Martinez performed the tests and inspections when Martinez
23 was not licensed to do so.

24 **TWENTY-THIRD CAUSE FOR DISCIPLINE**

25 **(Fraud)**

26 44. Respondent's registration is subject to disciplinary action pursuant to Code
27 section 9884.7, subdivision (a)(4), in that on or about June 21, 2007, he committed acts which
28 constitute fraud by issuing electronic Certificate of Compliance No. MS406929C for a 2000

1 Pontiac Grand Am and electronic Certificate of Compliance No. MS406930C for a 2002 Pontiac
2 Grand Prix without performing bona fide inspections of the emission control devices and systems
3 on those vehicles, thereby depriving the People of the State of California of the protection
4 afforded by the Motor Vehicle Inspection Program.

5 **TWENTY-FOURTH CAUSE FOR DISCIPLINE**

6 **(Violation of the Motor Vehicle Inspection Program)**

7 45. Respondent's station license is subject to disciplinary action pursuant to
8 Health and Safety Code section 44072.2, subdivision (a), in that on or about June 21, 2007,
9 regarding electronic Certificate of Compliance No. MS406929C for the 2000 Pontiac Grand Am
10 and electronic Certificate of Compliance No. MS406930C for the 2002 Pontiac Grand Prix, he
11 violated the following sections of that Code:

12 a. **Section 44012, subdivision (f):** Respondent failed to perform emission
13 control tests on those vehicles in accordance with procedures prescribed by the department.

14 b. **Section 44014, subdivision (a):** Respondent allowed Martinez to perform
15 the smog inspections when Martinez was not licensed to do so.

16 c. **Section 44015, subdivision (b):** Respondent issued the electronic
17 certificates of compliance for those vehicles without properly testing and inspecting the vehicles
18 to determine if they were in compliance with Health & Safety Code section 44012.

19 d. **Section 44059:** Respondent willfully made false entries for the electronic
20 certificates of compliance by certifying that those vehicles had been inspected as required when,
21 in fact, they had not.

22 **TWENTY-FIFTH CAUSE FOR DISCIPLINE**

23 **(Failure to Comply with Regulations Pursuant**
24 **to the Motor Vehicle Inspection Program)**

25 46. Respondent's station license is subject to disciplinary action pursuant to
26 Health & Safety Code section 44072.2, subdivision (c), in that on or about June 21, 2007,
27 regarding electronic Certificate of Compliance No. MS406929C for the 2000 Pontiac Grand Am
28 and electronic Certificate of Compliance No. MS406930C for the 2002 Pontiac Grand Prix,

Respondent failed to comply with the following provisions of California Code of Regulations, title 16:

a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently issued the electronic certificates of compliance for those vehicles without performing bona fide inspections of the emission control devices and systems on the vehicles as required by Health and Safety Code section 44012.

b. **Section 3340.35, subdivision (c):** Respondent issued the electronic certificates of compliance for those vehicles even though the vehicles had not been inspected in accordance with section 3340.42.

c. **Section 3340.41, subdivision (b):** Respondent allowed Martinez to access the EIS using Respondent's personal access code in order to perform the smog inspections.

d. **Section 3340.42:** Respondent failed to conduct the required smog tests and inspections on those vehicles in accordance with the Bureau's specifications.

TWENTY-SIXTH CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

47. Respondent has subjected his station license to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (d), in that on or about June 21, 2007, regarding electronic Certificate of Compliance No. MS406929C for the 2000 Pontiac Grand Am and electronic Certificate of Compliance No. MS 406930C for the 2002 Pontiac Grand Prix, he committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing the electronic certificates of compliance for those vehicles without performing bona fide inspections of the emission control devices and systems on those vehicles, thereby depriving the People of the State of California of the protection afforded by the Motor Vehicle Inspection Program.

TWENTY-SEVENTH CAUSE FOR DISCIPLINE

(Aiding and Abetting Unlicensed Activity)

48. Respondent has subjected his station license to disciplinary action pursuant to Health and Safety Code section 44072.2, subdivision (f), in that on or about June 21, 2007, he aided and abetted Martinez, an unlicensed person, to evade the provisions of the Motor Vehicle

1 Inspection Program by allowing Martinez to perform the smog tests and inspections on the 2000
2 Pontiac Grand Am and 2002 Pontiac Grand Prix when Martinez was not licensed to do so.

3 **TWENTY-EIGHTH CAUSE FOR DISCIPLINE**

4 **(Violations of the Motor Vehicle Inspection Program)**

5 49. Respondent's technician license is subject to disciplinary action pursuant to
6 Health and Safety Code section 44072.2, subdivision (a), in that on or about June 21, 2007,
7 regarding electronic Certificate of Compliance No. MS406929C for a 2000 Pontiac Grand Am
8 and electronic Certificate of Compliance No. MS406930C for a 2002 Pontiac Grand Prix, he
9 violated the following sections of that Code:

10 a. **Section 44012, subdivision (f):** Respondent failed to determine that all
11 emission control devices and systems required by law were installed and functioning correctly on
12 those vehicles in accordance with test procedures.

13 b. **Section 44014, subdivision (a):** Respondent allowed Martinez to perform
14 the smog inspections when Martinez was not licensed to do so.

15 c. **Section 44032:** Respondent failed to perform tests of the emission control
16 devices and systems on those vehicles in accordance with section 44012 of that Code.

17 d. **Section 44059:** Respondent entered false information for the electronic
18 certificates of compliance by certifying that the vehicles had been inspected as required when, in
19 fact, they had not.

20 **TWENTY-NINTH CAUSE FOR DISCIPLINE**

21 **(Failure to Comply with Regulations Pursuant**
22 **to the Motor Vehicle Inspection Program)**

23 50. Respondent's technician license is subject to disciplinary action pursuant to
24 Health and Safety Code section 44072.2, subdivision (c), in that on or about June 21, 2007,
25 regarding electronic Certificate of Compliance No. MS406929C for a 2000 Pontiac Grand Am
26 and electronic Certificate of Compliance No. MS406930C for a 2002 Pontiac Grand Prix, he
27 violated the following sections of the California Code of Regulations:

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1 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently
2 issued the electronic certificates of compliance for those vehicles without performing bona fide
3 inspections of the emission control devices and systems on those vehicles as required by Health
4 and Safety Code section 44012.

5 b. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test
6 the vehicles in accordance with Health and Safety Code section 44012.

7 c. **Section 3340.41, subdivision (b):** Respondent allowed Martinez to
8 access the EIS using Respondent's personal access code in order to perform the smog inspections.

9 d. **Section 3340.42:** Respondent failed to conduct the required smog tests
10 and inspections on those vehicles in accordance with the Bureau's specifications.

11 **THIRTIETH CAUSE FOR DISCIPLINE**

12 **(Dishonesty, Fraud or Deceit)**

13 51. Respondent has subjected his technician license to disciplinary action
14 pursuant to Health and Safety Code section 44072.2, subdivision (d), in that on or about June 21,
15 2007, regarding electronic Certificate of Compliance No. MS406929C for the 2000 Pontiac Grand
16 Am and electronic Certificate of Compliance No. MS406930C for the 2002 Pontiac Grand Prix,
17 he committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing
18 the electronic certificates of compliance for those vehicles without performing bona fide
19 inspections of the emission control devices and systems on those vehicles, thereby depriving the
20 People of the State of California of the protection afforded by the Motor Vehicle Inspection
21 Program.

22 **THIRTY-FIRST CAUSE FOR DISCIPLINE**

23 **(Aiding and Abetting Unlicensed Activity)**

24 52. Respondent has subjected his technician license to disciplinary action
25 pursuant to Health and Safety Code section 44072.2, subdivision (f), in that on or about June 21,
26 2007, he aided and abetted Martinez, an unlicensed person, to evade the provisions of the Motor
27 Vehicle Inspection Program by allowing Martinez to perform the smog tests and inspections on

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1 the 2000 Pontiac Grand Am and 2002 Pontiac Grand Prix when Martinez was not licensed to do
2 so.

3 **SURVEILLANCE OPERATION - JUNE 22, 2007**

4 53. On or about June 22, 2007, the Bureau performed a videotaped surveillance
5 at Respondent's facility. The surveillance operation and information obtained from the Bureau's
6 VID revealed that from approximately 0857 hours to 1653 hours, two (2) smog inspections were
7 performed that resulted in the issuance of electronic Certificate of Compliance No. MS406933C
8 for a 2000 Dodge Neon and electronic Certificate of Compliance No. MS406939C for a 1999
9 Ford Windstar Van, certifying that the vehicles had been tested and inspected and that the vehicles
10 were in compliance with applicable laws and regulations. In fact, both smog inspections were
11 performed by Martinez, who was not licensed to perform smog inspections.

12 **THIRTY-SECOND CAUSE FOR DISCIPLINE**

13 **(Misleading Statements)**

14 54. Respondent's registration is subject to disciplinary action pursuant to Code
15 section 9884.7, subdivision (a)(1), in that on or about June 22, 2007, he made statements which he
16 knew or which by exercise of reasonable care he should have known were untrue or misleading,
17 as follows:

18 a. Respondent issued electronic Certificate of Compliance No. MS406933C
19 for the 2000 Dodge Neon, certifying that the vehicle had been tested and inspected by a licensed
20 technician when, in fact, Martinez performed the tests and inspections when Martinez was not
21 licensed to do so.

22 b. Respondent issued electronic Certificate of Compliance No. MS406939C
23 for the 1999 Ford Windstar Van, certifying that the vehicle had been tested and inspected by a
24 licensed technician when, in fact, Martinez performed the tests and inspections when Martinez
25 was not licensed to do so.

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1 **THIRTY-THIRD CAUSE FOR DISCIPLINE**

2 **(Fraud)**

3 55. Respondent's registration is subject to disciplinary action pursuant to Code
4 section 9884.7, subdivision (a)(4), in that on or about June 22, 2007, he committed acts which
5 constitute fraud by issuing electronic Certificate of Compliance No. MS406933C for a 2000
6 Dodge Neon and electronic Certificate of Compliance No. MS406939C for a 1999 Ford Windstar
7 Van without performing bona fide inspections of the emission control devices and systems on
8 those vehicles, thereby depriving the People of the State of California of the protection afforded
9 by the Motor Vehicle Inspection Program.

10 **THIRTY-FOURTH CAUSE FOR DISCIPLINE**

11 **(Violation of the Motor Vehicle Inspection Program)**

12 56. Respondent's station license is subject to disciplinary action pursuant to
13 Health and Safety Code section 44072.2, subdivision (a), in that on or about June 22, 2007,
14 regarding electronic Certificate of Compliance No. MS406933C for the 2000 Dodge Neon and
15 electronic Certificate of Compliance No. MS406939C for the 1999 Ford Windstar Van, he
16 violated the following sections of that Code:

17 a. **Section 44012, subdivision (f):** Respondent failed to perform emission
18 control tests on those vehicles in accordance with procedures prescribed by the department.

19 b. **Section 44014, subdivision (a):** Respondent allowed Martinez to perform
20 the smog inspections when Martinez was not licensed to do so.

21 c. **Section 44015, subdivision (b):** Respondent issued the electronic
22 certificates of compliance for those vehicles without properly testing and inspecting the vehicles
23 to determine if they were in compliance with Health & Safety Code section 44012.

24 d. **Section 44059:** Respondent willfully made false entries for the electronic
25 certificates of compliance by certifying that the vehicles had been inspected as required when, in
26 fact, they had not.

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1 of the emission control devices and systems on those vehicles, thereby depriving the People of the
2 State of California of the protection afforded by the Motor Vehicle Inspection Program.

3 **THIRTY-SEVENTH CAUSE FOR DISCIPLINE**

4 **(Aiding and Abetting Unlicensed Activity)**

5 59. Respondent has subjected his station license to disciplinary action pursuant
6 to Health and Safety Code section 44072.2, subdivision (f), in that on or about June 22, 2007, he
7 aided and abetted Martinez, an unlicensed person, to evade the provisions of the Motor Vehicle
8 Inspection Program by allowing Martinez to perform the smog tests and inspections on the 2000
9 Dodge Neon and 1999 Ford Windstar Van when Martinez was not licensed to do so.

10 **THIRTY-EIGHTH CAUSE FOR DISCIPLINE**

11 **(Violations of the Motor Vehicle Inspection Program)**

12 60. Respondent's technician license is subject to disciplinary action pursuant to
13 Health and Safety Code section 44072.2, subdivision (a), in that on or about June 22, 2007,
14 regarding electronic Certificate of Compliance No. MS406933C for a 2000 Dodge Neon and
15 electronic Certificate of Compliance No. MS406939C for a 1999 Ford Windstar Van, he violated
16 the following sections of that Code:

17 a. **Section 44012, subdivision (f):** Respondent failed to determine that all
18 emission control devices and systems required by law were installed and functioning correctly on
19 those vehicles in accordance with test procedures.

20 b. **Section 44014, subdivision (a):** Respondent allowed Martinez to perform
21 the smog inspections when Martinez was not licensed to do so.

22 c. **Section 44032:** Respondent failed to perform tests of the emission control
23 devices and systems on those vehicles in accordance with section 44012 of that Code.

24 d. **Section 44059:** Respondent entered false information for the electronic
25 certificates of compliance by certifying that those vehicles had been inspected as required when,
26 in fact, they had not.

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1 **THIRTY-NINTH CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with Regulations Pursuant**
3 **to the Motor Vehicle Inspection Program)**

4 61. Respondent's technician license is subject to disciplinary action pursuant to
5 Health and Safety Code section 44072.2, subdivision (c), in that on or about June 22, 2007,
6 regarding electronic Certificate of Compliance No. MS406933C for a 2000 Dodge Neon and
7 electronic Certificate of Compliance No. MS406939C for a 1999 Ford Windstar Van, he violated
8 the following sections of the California Code of Regulations, title 16:

9 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently
10 issued the electronic certificates of compliance for those vehicles without performing bona fide
11 inspections of the emission control devices and systems on those vehicles as required by Health
12 and Safety Code section 44012.

13 b. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test
14 the vehicles in accordance with Health and Safety Code section 44012.

15 c. **Section 3340.41, subdivision (b):** Respondent allowed Martinez to
16 access the EIS using Respondent's personal access code in order to perform the smog inspections.

17 d. **Section 3340.42:** Respondent failed to conduct the required smog tests
18 and inspections on the vehicle in accordance with the Bureau's specifications.

19 **FORTIETH CAUSE FOR DISCIPLINE**

20 **(Dishonesty, Fraud or Deceit)**

21 62. Respondent has subjected his technician license to discipline under Health
22 and Safety Code section 44072.2, subdivision (d), in that on or about June 22, 2007, regarding
23 electronic Certificate of Compliance No. MS406933C for the 2000 Dodge Neon and electronic
24 Certificate of Compliance No. MS406939C for the 1999 Ford Windstar Van, he committed acts
25 involving dishonesty, fraud or deceit whereby another was injured by issuing the electronic
26 certificates of compliance for those vehicles without performing tests and inspections of the
27 emission control devices and systems on those vehicles, thereby depriving the People of the State
28 of California of the protection afforded by the Motor Vehicle Inspection Program.

1 **FORTY-FIRST CAUSE FOR DISCIPLINE**

2 **(Aiding and Abetting Unlicensed Activity)**

3 63. Respondent has subjected his technician license to disciplinary action
4 pursuant to Health and Safety Code section 44072.2, subdivision (f), in that on or about June 22,
5 2007, he aided and abetted Martinez, an unlicensed person, to evade the provisions of the Motor
6 Vehicle Inspection Program by allowing Martinez to perform the smog tests and inspections on
7 the 2000 Dodge Neon and 1999 Ford Windstar Van when Martinez was not licensed to do so.

8 **UNDERCOVER OPERATION - JULY 23, 2007**

9 64. On July 23, 2007, a Bureau undercover operator using the alias "Ruben"
10 ("operator") drove a Bureau-documented 1992 Lexus ES300, California License Plate No.
11 5AFW014, to Respondent's facility for a smog inspection. The vehicle could not pass a smog
12 inspection because the vehicle's ignition timing was adjusted beyond the manufacturer's
13 specifications. Martinez accessed the EIS; however, Respondent performed the actual smog
14 inspection. Respondent failed to perform the functional test of the ignition timing and a fuel cap
15 integrity test. The operator was not provided with a written estimate prior to the smog inspection.
16 Following the completion of the smog inspection, Respondent provided the operator with a work
17 order asking for the operator's information. Respondent issued electronic Certificate of
18 Compliance No. MS956956C, certifying that he had tested and inspected the 1992 Lexus ES300
19 and that the vehicle was in compliance with applicable laws and regulations. In fact, the vehicle
20 could not have passed the functional portion of the smog inspection because the vehicle's ignition
21 timing was adjusted beyond the manufacturer's specification.

22 **FORTY-SECOND CAUSE FOR DISCIPLINE**

23 **(Untrue or Misleading Statements)**

24 65. Respondent's registration is subject to disciplinary action pursuant to Code
25 section 9884.7, subdivision (a)(1), in that on or about July 23, 2007, Respondent made or
26 authorized statements which he knew or in the exercise of reasonable care he should have known
27 to be untrue or misleading by issuing electronic Certificate of Compliance No. MS956956C for
28 the 1992 Lexus ES300, certifying that the vehicle was in compliance with applicable laws and

1 regulations. In fact, the vehicle could not have passed the functional portion of the smog
2 inspection because the vehicle's ignition timing was adjusted beyond the manufacturer's
3 specifications.

4 **FORTY-THIRD CAUSE FOR DISCIPLINE**

5 **(Fraud)**

6 66. Respondent's registration is subject to disciplinary action pursuant to Code
7 section 9884.7, subdivision (a)(4), in that on or about July 23, 2007, he committed acts which
8 constitute fraud by issuing electronic Certificate of Compliance No. MS956956C for the 1992
9 Lexus ES300 without performing a bona fide inspection of the emission control devices and
10 systems on the vehicle, thereby depriving the People of the State of California of the protection
11 afforded by the Motor Vehicle Inspection Program.

12 **FORTY-FOURTH CAUSE FOR DISCIPLINE**

13 **(Failure to Comply with the Automotive Repair Act)**

14 67. Respondent's registration is subject to disciplinary action pursuant to Code
15 section 9884.7, subdivision (a)(6), in that on or about July 23, 2007, Respondent failed to comply
16 with Code section 9884.9, subdivision (a), by failing to provide the operator with a written
17 estimated price for parts and labor for a specific job regarding the smog inspection.

18 **FORTY-FIFTH CAUSE FOR DISCIPLINE**

19 **(Violations of the Motor Vehicle Inspection Program)**

20 68. Respondent's station license is subject to disciplinary action pursuant to
21 Health & Safety Code section 44072.2, subdivision (a), in that on or about July 23, 2007,
22 regarding the 1992 Lexus ES300, Respondent failed to comply with the following sections of that
23 Code:

24 a. **Section 44012, subdivision (f):** Respondent failed to perform emission
25 control tests on that vehicle in accordance with procedures prescribed by the department.

26 b. **Section 44014, subdivision (a):** Respondent allowed Martinez to access
27 the EIS system when Martinez was not licensed to do so.

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1 c. **Section 44015, subdivision (b)**: Respondent issued electronic Certificate
2 of Compliance No. MS956956C for that vehicle without properly testing and inspecting the
3 vehicle to determine if it was in compliance with Health & Safety Code section 44012.

4 d. **Section 44059**: Respondent willfully made false entries for electronic
5 Certificate of Compliance No. MS956956C by certifying that the vehicle had been inspected as
6 required when, in fact, it had not.

7 **FORTY-SIXTH CAUSE FOR DISCIPLINE**

8 **(Failure to Comply with Regulations Pursuant
9 to the Motor Vehicle Inspection Program)**

10 69. Respondent's station license is subject to disciplinary action pursuant to
11 Health & Safety Code section 44072.2, subdivision (c), in that on or about July 23, 2007,
12 regarding the 1992 Lexus ES300, Respondent failed to comply with the following provisions of
13 California Code of Regulations, title 16:

14 a. **Section 3340.24, subdivision (c)**: Respondent falsely or fraudulently
15 issued electronic Certificate of Compliance No. MS956956C for the vehicle, in that the vehicle
16 could not pass the functional portion of the smog inspection because the vehicle's ignition timing
17 was adjusted beyond the manufacturer's specification.

18 b. **Section 3340.35, subdivision (c)**: Respondent issued electronic Certificate
19 of Compliance No. MS956956C for the vehicle even though the vehicle had not been inspected in
20 accordance with section 3340.42.

21 c. **Section 3340.41, subdivision (b)**: Respondent allowed Martinez to access
22 the EIS system using Respondent's personal access code when Martinez was not licensed to do
23 so.

24 d. **Section 3340.42**: Respondent failed to conduct the required smog tests on
25 the vehicle in accordance with the Bureau's specifications.

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1 **FORTY-SEVENTH CAUSE FOR DISCIPLINE**

2 **(Dishonesty, Fraud or Deceit)**

3 70. Respondent's station license is subject to disciplinary action pursuant to
4 Health & Safety Code section 44072.2, subdivision (d), in that on or about July 23, 2007,
5 Respondent committed dishonest, fraudulent or deceitful acts whereby another is injured by
6 issuing electronic Certificate of Compliance No. MS956956C for the 1992 Lexus ES300 without
7 performing a bona fide inspection of the emission control devices and systems on the vehicle,
8 thereby depriving the People of the State of California of the protection afforded by the Motor
9 Vehicle Inspection Program.

10 **FORTY-EIGHTH CAUSE FOR DISCIPLINE**

11 **(Aiding and Abetting Unlicensed Activity)**

12 71. Respondent's station license is subject to disciplinary action pursuant to
13 Health and Safety Code section 44072.2, subdivision (f), in that on or about July 23, 2007, he
14 aided and abetted Martinez, an unlicensed person, to evade the provisions of the Motor Vehicle
15 Inspection Program by allowing Martinez to access the EIS system when Martinez was not
16 licensed to do so.

17 **FORTY-NINTH CAUSE FOR DISCIPLINE**

18 **(Violations of the Motor Vehicle Inspection Program)**

19 72. Respondent's technician license is subject to disciplinary action pursuant to
20 Health and Safety Code section 44072.2, subdivision (a), in that on or about July 23, 2007,
21 regarding electronic Certificate of Compliance No. MS956956C for the 1992 Lexus ES300, he
22 violated the following sections of that Code:

23 a. **Section 44012, subdivision (f):** Respondent failed to determine that all
24 emission control devices and systems required by law were installed and functioning correctly on
25 that vehicle in accordance with test procedures.

26 b. **Section 44014, subdivision (a):** Respondent allowed Martinez to access
27 the EIS in order to perform the smog inspection when Martinez was not licensed to do so.

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1 c. **Section 44032:** Respondent failed to perform tests of the emission control
2 devices and systems on the vehicle in accordance with section 44012 of that Code, in that the
3 vehicle could not have passed the functional portion of the smog inspection because the vehicle's
4 ignition timing was adjusted beyond the manufacturer's specifications.

5 d. **Section 44059:** Respondent willfully made false entries for electronic
6 Certificate of Compliance No. MS956956C by certifying that the vehicle had been inspected as
7 required when, in fact, it had not.

8 **FIFTIETH CAUSE FOR DISCIPLINE**

9 **(Failure to Comply with Regulations Pursuant**
10 **to the Motor Vehicle Inspection Program)**

11 73. Respondent's technician license is subject to disciplinary action pursuant to
12 Health and Safety Code section 44072.2, subdivision (c), in that on or about July 23, 2007,
13 regarding electronic Certificate of Compliance No. MS956956C for the 1992 Lexus ES300, he
14 violated the following sections of the California Code of Regulations, title 16:

15 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently
16 issued the electronic certificate of compliance for that vehicle without performing a bona fide
17 inspection of the emission control devices and systems on the vehicle as required by Health and
18 Safety Code section 44012.

19 b. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test
20 the vehicle in accordance with Health and Safety Code section 44012.

21 c. **Section 3340.41, subdivision (b):** Respondent allowed Martinez to access
22 the EIS using Respondent's personal access code.

23 d. **Section 3340.41, subdivision (c):** Respondent entered false information
24 for the electronic certificate of compliance by certifying that he had inspected the vehicle when, in
25 fact, the vehicle could not pass the functional portion of the smog inspection because the vehicle's
26 ignition timing was adjusted beyond the manufacturer's specifications.

27 e. **Section 3340.42:** Respondent failed to conduct the required smog tests
28 and inspections on the vehicle in accordance with the Bureau's specifications.

1 **FIFTY-FIRST CAUSE FOR DISCIPLINE**

2 **(Dishonesty, Fraud or Deceit)**

3 74. Respondent's technician license is subject to disciplinary action under
4 Health and Safety Code section 44072.2, subdivision (d), in that on or about July 23, 2007, he
5 committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing
6 electronic Certificate of Compliance No. MS956956C for the 1992 Lexus ES300 without
7 performing a bona fide inspection of the emission control devices and systems on that vehicle,
8 thereby depriving the People of the State of California of the protection afforded by the Motor
9 Vehicle Inspection Program.

10 **FIFTY-SECOND CAUSE FOR DISCIPLINE**

11 **(Aiding and Abetting Unlicensed Activity)**

12 75. Respondent's technician license is subject to disciplinary action pursuant to
13 Health and Safety Code section 44072.2, subdivision (f), in that on or about July 23, 2007, he
14 aided and abetted Martinez, an unlicensed person, to evade the provisions of the Motor Vehicle
15 Inspection Program by allowing Martinez to access the EIS when Martinez was not licensed to do
16 so.

17 **UNDERCOVER OPERATION - AUGUST 8, 2007**

18 76. On August 8, 2007, a Bureau undercover operator using the alias "Ruben"
19 drove a Bureau-documented 1990 Mercury Sable, California License Plate No. 2REV663, to
20 Respondent's facility for a smog inspection. The vehicle could not pass a smog inspection
21 because the vehicle's ignition timing was adjusted beyond the manufacturer's specifications. The
22 operator spoke with Martinez and requested a smog inspection. The operator provided Martinez
23 with his information and signed a work order; however, the operator did not receive a written
24 estimate prior to the smog inspection. Martinez, an unlicensed person using Respondent's
25 personal access code, performed the smog inspection. Martinez failed to perform a functional test
26 of the ignition timing and a fuel cap integrity test. Respondent issued electronic Certificate of
27 Compliance No. MU156214C, certifying that he had tested and inspected the 1990 Mercury
28 Sable and that the vehicle was in compliance with applicable laws and regulations. In fact, the

1 vehicle could not have passed the functional portion of the smog inspection because the vehicle's
2 ignition timing was adjusted beyond the manufacturer's specification.

3 **FIFTY-THIRD CAUSE FOR DISCIPLINE**

4 **(Untrue or Misleading Statements)**

5 77. Respondent's registration is subject to disciplinary action pursuant to Code
6 section 9884.7, subdivision (a)(1), in that on or about August 8, 2007, Respondent made or
7 authorized statements which he knew or in the exercise of reasonable care he should have known
8 to be untrue or misleading, by issuing electronic Certificate of Compliance No. MU156214C for
9 the 1990 Mercury Sable, certifying that the vehicle was in compliance with applicable laws and
10 regulations. In fact, the vehicle could not have passed the functional portion of the smog
11 inspection because the vehicle's ignition timing was adjusted beyond the manufacturer's
12 specification.

13 **FIFTY-FOURTH CAUSE FOR DISCIPLINE**

14 **(Fraud)**

15 78. Respondent's registration is subject to disciplinary action pursuant to Code
16 section 9884.7, subdivision (a)(4), in that on or about August 8, 2007, he committed acts which
17 constitute fraud by issuing electronic Certificate of Compliance No. MU156214C for the 1990
18 Mercury Sable, without performing a bona fide inspection of the emission control devices and
19 systems on the vehicle, thereby depriving the People of the State of California of the protection
20 afforded by the Motor Vehicle Inspection Program.

21 **FIFTY-FIFTH CAUSE FOR DISCIPLINE**

22 **(Failure to Comply with the Automotive Repair Act)**

23 79. Respondent's registration is subject to disciplinary action pursuant to Code
24 section 9884.7, subdivision (a)(6), in that on or about August 8, 2007, Respondent failed to
25 comply with Code section 9884.9, subdivision (a), by failing to provide the operator with a
26 written estimated price for parts and labor for a specific job regarding the smog inspection.

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1 **FIFTY-SIXTH CAUSE FOR DISCIPLINE**

2 **(Violations of the Motor Vehicle Inspection Program)**

3 80. Respondent's station license is subject to disciplinary action pursuant to
4 Health & Safety Code section 44072.2, subdivision (a), in that on or about August 8, 2007,
5 regarding the 1990 Mercury Sable, Respondent failed to comply with the following sections of
6 that Code:

7 a. **Section 44012, subdivision (f)**: Respondent failed to perform emission
8 control tests on the vehicle in accordance with procedures prescribed by the department.

9 b. **Section 44014, subdivision (a)**: Respondent allowed Martinez to perform
10 the smog inspection when Martinez was not licensed to do so.

11 c. **Section 44015, subdivision (b)**: Respondent issued electronic Certificate
12 of Compliance No. MU156214C for that vehicle without properly testing and inspecting the
13 vehicle to determine if it was in compliance with Health & Safety Code section 44012.

14 d. **Section 44059**: Respondent willfully made false entries for electronic
15 Certificate of Compliance No. MU156214C by certifying that the vehicle had been inspected as
16 required when, in fact, it had not.

17 **FIFTY-SEVENTH CAUSE FOR DISCIPLINE**

18 **(Failure to Comply with Regulations Pursuant**
19 **to the Motor Vehicle Inspection Program)**

20 81. Respondent's station license is subject to disciplinary action pursuant to
21 Health & Safety Code section 44072.2, subdivision (c), in that on or about August 8, 2007,
22 regarding the 1990 Mercury Sable, Respondent failed to comply with the following provisions of
23 California Code of Regulations, title 16:

24 a. **Section 3340.24, subdivision (c)**: Respondent falsely or fraudulently
25 issued electronic Certificate of Compliance No. MU156214C for the vehicle, in that the vehicle
26 could not pass a smog inspection because the vehicle's ignition timing was adjusted beyond the
27 manufacturer's specifications.

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1 b. **Section 3340.35, subdivision (c):** Respondent issued electronic Certificate
2 of Compliance No. MU156214C for the vehicle even though the vehicle had not been inspected in
3 accordance with section 3340.42.

4 c. **Section 3340.41, subdivision (b):** Respondent allowed Martinez to
5 access the EIS using Respondent's personal access code in order to perform the smog inspection.

6 d. **Section 3340.41, subdivision (c):** Respondent allowed Martinez to
7 access the EIS using Respondent's personal access code in order to enter false information
8 regarding the vehicle's ignition timing and the fuel cap test.

9 e. **Section 3340.42:** Respondent failed to conduct the required smog tests on
10 the vehicle in accordance with the Bureau's specifications.

11 **FIFTY-EIGHTH CAUSE FOR DISCIPLINE**

12 **(Dishonesty, Fraud or Deceit)**

13 82. Respondent's station license is subject to disciplinary action pursuant to
14 Health & Safety Code section 44072.2, subdivision (d), in that on or about August 8, 2007,
15 Respondent committed dishonest, fraudulent or deceitful acts whereby another is injured by
16 issuing electronic Certificate of Compliance No. MU156214C for the 1990 Mercury Sable
17 without performing a bona fide inspection of the emission control devices and systems on the
18 vehicle, thereby depriving the People of the State of California of the protection afforded by the
19 Motor Vehicle Inspection Program.

20 **FIFTY-NINTH CAUSE FOR DISCIPLINE**

21 **(Aiding and Abetting Unlicensed Activity)**

22 83. Respondent's station license is subject to disciplinary action pursuant to
23 Health and Safety Code section 44072.2, subdivision (f), in that on or about August 8, 2007, he
24 aided and abetted Martinez, an unlicensed person, to evade the provisions of the Motor Vehicle
25 Inspection Program by allowing Martinez to perform the smog tests and inspections on the 1990
26 Mercury Sable when Martinez was not licensed to do so.

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1 b. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test
2 the vehicle in accordance with Health and Safety Code section 44012.

3 c. **Section 3340.41, subdivision (c):** Respondent entered false information
4 for the electronic certificate of compliance by certifying that he had inspected the vehicle when, in
5 fact, Martinez performed the smog tests and inspections when Martinez was not licensed to do so.

6 d. **Section 3340.42:** Respondent failed to conduct the required smog tests
7 and inspections on the vehicle in accordance with the Bureau's specifications.

8 **SIXTY-SECOND CAUSE FOR DISCIPLINE**

9 **(Dishonesty, Fraud or Deceit)**

10 86. Respondent's technician license is subject to disciplinary action pursuant to
11 Health and Safety Code section 44072.2, subdivision (d), in that on or about August 8, 2007, he
12 committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing
13 electronic Certificate of Compliance No. MU156214C for the 1990 Mercury Sable without
14 performing a bona fide inspection of the emission control devices and systems on that vehicle,
15 thereby depriving the People of the State of California of the protection afforded by the Motor
16 Vehicle Inspection Program.

17 **SIXTY-THIRD CAUSE FOR DISCIPLINE**

18 **(Dishonesty, Fraud or Deceit)**

19 87. Respondent's lamp and brake station licenses are subject to disciplinary
20 action pursuant to Code section 9889.3, subdivision (d), in that from May 3, 2007, to August 8,
21 2007, he committed acts involving dishonesty, fraud or deceit whereby another was injured, as
22 more particularly set forth in paragraphs 21, 25, 33, 36, 44, 47, 55, 58, 66, 70, 78, and 82, above.

23 **OTHER MATTERS**

24 88. Under Code section 9884.7, subdivision (c), the director may invalidate
25 temporarily or permanently or refuse to validate, the registrations for all places of business
26 operated in this state by Piara S. Deol, also known as Piara Singh Deol, doing business as Deol
27 Automotive Service, upon a finding that he has, or is, engaged in a course of repeated and willful
28 violations of the laws and regulations pertaining to an automotive repair dealer.

89. Under Health and Safety Code section 44072.8, if Smog Check Station License Number RC 147661, issued to Piara S. Deol, also known as Piara Singh Deol, doing business as Deol Automotive Service, is revoked or suspended, any additional license issued under this chapter in the name of said licensee may be likewise revoked or suspended by the director.

90. Under Code section 9889.9, if Official Brake Station License Number BS 147661, Class C, issued to Piara S. Deol, also known as Piara Singh Deol, doing business as Deol Automotive Service, is revoked or suspended, any additional license issued under this chapter in the name of said licensee may be likewise revoked or suspended by the director including, but not limited to, Official Lamp Station License Number LS 147661, Class A.

91. Under Health and Safety Code section 44072.8, if Advanced Emission Specialist Technician License Number EA 313163, issued to Piara Singh Deol, also known as Piara S. Deol, is revoked or suspended, any additional license issued under this chapter in the name of said licensee may be likewise revoked or suspended by the director.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Director of Consumer Affairs issue a decision:

1. Temporarily or permanently invalidating Automotive Repair Dealer Registration Number ARD 147661, issued to Piara S. Deol, also known as Piara Singh Deol, doing business as Deol Automotive Service;

2. Temporarily or permanently invalidating any other automotive repair dealer registration issued to Piara S. Deol, also known as Piara Singh Deol, doing business as Deol Automotive Service;

3. Revoking or suspending Smog Check Station License Number RC 147661, issued to Piara S. Deol, also known as Piara Singh Deol, doing business as Deol Automotive Service;

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1 4. Revoking or suspending any additional license issued under Chapter 5 of
2 the Health and Safety Code in the name of Piara S. Deol, Piara Singh Deol, doing business as
3 Deol Automotive Service;

4 5. Revoking or suspending Lamp Station License Number LS 147661, Class
5 C, issued to Piara S. Deol, Piara Singh Deol, doing business as Deol Automotive Service;

6 6. Revoking or suspending Brake Station License Number BS 147661, Class
7 A, issued to Piara S. Deol, Piara Singh Deol, doing business as Deol Automotive Service;

8 7. Revoking or suspending any additional license issued under this chapter in
9 the name of Piara S. Deol, Piara Singh Deol, doing business as Deol Automotive Service;

10 8. Revoking or suspending Advanced Emission Specialist Technician License
11 Number EA 313163, issued to Piara Singh Deol, also known as Piara S. Deol;

12 9. Revoking or suspending any additional license issued under Chapter 5 of
13 the Health and Safety Code in the name of Piara Singh Deol, also known as Piara S. Deol;

14 10. Ordering Piara S. Deol, also known as Piara Singh Deol to pay the Bureau
15 of Automotive Repair the reasonable costs of the investigation and enforcement of this case,
16 pursuant to Code section 125.3; and,

17 11. Taking such other and further action as deemed necessary and proper.
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19 DATED: 9/29/08

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21 
22 SHERRY MEHL
23 Chief
24 Bureau of Automotive Repair
25 Department of Consumer Affairs
26 State of California
27 Complainant

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ps (7/17/08)